

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

in

For Approval and Signature:

MR. JUSTICE C.K. THAKKER

JJJ

5. Whether it is to be circulated to the Civil Judge?-No.

GSRTC

Versus

NAMDEVKUMAR MADHAVRAM KANK

Appearance:

MR HARDIK C RAWAL for the appellant.

MR HK RATHOD for the Respondent.

CORAM : THE CHIEF JUSTICE G.D.KAMAT and
MR.JUSTICE C.K.THAKKER

Date of decision: 09/10/96

ORAL JUDGEMENT : (Per G.D. Kamat, C.J.)

Admit. By consent, to be heard forthwith.

Gujarat State Road Transport Corporation challenges the order of the learned single Judge dated 25th July, 1995 in Special Civil Application No.5689 of 1995, whereby the Special Civil Application instituted by the Corporation was rejected by the learned single Judge. The story of the matter is that the respondent was employed as a workcharged Karkun with the Corporation and by an office order dated 8th of September, 1978, his services were terminated. For a long time, he did not seek any Reference of the dispute relating to termination of his services and sought reference as late as 7th of April, 1986. However, he succeeded in the Reference and by the Award dated 24th January, 1995, the learned Labour Court directed reinstatement in service, with continuity, and awarded backwages to the extent of 75% for the period from the date of Reference, viz., 7.4.1986, to the date of reinstatement (after the Award dated 24th January, 1995). The learned single Judge felt that there is no case for interference.

In the Appeal, various contentions are taken. We, however, find that we are not enamoured by any of the contentions made. However, the fact remains that the respondent, despite the fact that his services were terminated on 8th September, 1978, did not seek reference for almost nine years until he woke up on 7th of April, 1986. The backwages for this period were rightly refused by the Labour Court. The further fact remains that though the Reference was sought on 7th of April, 1986, the Award was made on 24th January, 1995. This being so, what fell from the Court was accepted by the learned counsels and respective parties. The Court suggested

that backwages for the relevant period should be reduced to 50%, instead of 75%. To the extent indicated, the Award of the Labour Court as also the order of the learned single Judge to that extent shall stand modified and the respondent shall be entitled to backwages to the extent of 50% from 7.4.1986 until the date of his reinstatement. Backwages shall be calculated in accordance with the Rules and the Settlements and the same shall be paid to him within a period of six weeks to be computed from 15th of October, 1996.

(apj)